

Remarks

Reconsideration of this Application is respectfully requested. Claims 1-28 are pending in the application, of which claims 1, 10, 15, and 20 are independent. Based on the remarks set forth below, it is respectfully requested that the Examiner reconsider and withdraw all outstanding rejections.

Rejection under 35 U.S.C. § 102

The Examiner, on page 2 of the Office Action, states that claims 1-5 and 10-24 are rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 6,260,068 B1 to Zalewski *et al.* (hereinafter “Zalewski”). Applicants respectfully traverse this rejection. Based on the remarks set forth below, Applicants respectfully request that this rejection be reconsidered and withdrawn.

To anticipate a claim of a pending application, a single reference must disclose each and every element of the claimed invention. *Hybritech Inc. v. Monoclonal Antibodies, Inc.*, 802 F.2d 1367, 1397 (Fed. Cir. 1986). The exclusion of a claimed element from the single source is enough to negate anticipation by that reference. *Atlas Powder Co. v. E.I. du Pont de Nemours & Co.*, 750 F.2d 1569, 1574 (Fed. Cir. 1984).

With respect to independent claims 1, the Examiner states that Zalewski teaches every element of these claims. Applicants respectfully disagree.

Contrary to the present invention, Zalewski does not teach or suggest every element of Applicants’ invention. For example, referring to independent claim 1, Zalewski does not teach or suggest at least the following claimed element of: “... in response to a first processor in the plurality of processors being scheduled to enter an idle

state due to lack of scheduling tasks, making a processor execution resource previously reserved for the first processor available to any of the plurality of processors.”

The Examiner states, on page 2 of the Office Action, that Zalewski discloses this element at column 32, lines 39-45. To the contrary, Zalewski, at column 32, lines 39-45, states the following:

[i]n yet another approach, instances would allocate a resource from the unassigned pool when their needs require it. When they are finished with the resource, they return it to the unassigned pool. If the pool is empty, an instance has to operate with its then-existing allocation of the resource. So, we have a common pool, but no request/release protocol is required between instances.

Thus, unlike the present invention, which teaches “in response to a first processor in the plurality of processors being scheduled to enter an idle state due to lack of scheduling tasks, ...”, Zalewski, at column 32, lines 39-45, is silent on the issue of “in response to a first processor ... being scheduled to enter an idle state due to lack of scheduling tasks,” Instead, Zalewski teaches, at column 32, lines 39-45, that instances would allocate a resource from an unassigned pool when the instances’ needs require it and then return the resource to the unassigned pool when the instances are finished with the resource. Thus, contrary to the present invention, which makes a processor execution resource previously reserved for the first processor available to any of the plurality of processors in response to the first processor in the plurality of processors being scheduled to enter an idle state due to lack of scheduling tasks, Zalewski allocates a resource from the unassigned pool when the instances’ needs require it. In fact, Zalewski further states in column 32, lines 44-45, that even though they have a common pool, they do not require between instances a request/release protocol, and therefore, teaches away from Applicants’ element of “... in response to a first processor

in the plurality of processors being scheduled to enter an idle state due to lack of scheduling tasks, making a processor execution resource previously reserved for the first processor available to any of the plurality of processors.”

For at least these reasons, Applicants respectfully submit that Zalewski does not include each and every element of Applicants’ claimed invention recited in independent claim 1. Independent claims 10, 15, and 20 include similar elements as recited in independent claim 1. Thus, for at least the same reasons stated above, Zalewski does not include each and every element of Applicants’ claimed invention recited in independent claims 10, 15, and 20. Therefore, independent claims 1, 10, 15, and 20, and the claims that depend therefrom (claims 2-9, 11-14, 16-19, and 21-28, respectively), are patentable over Zalewski. Reconsideration and withdrawal of this rejection is respectfully requested.

Rejection Under 35 U.S.C. § 103

The Examiner, on page 6 of the Office Action, has rejected claims 6-9 and 25-28 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,260,068 to Zalewski *et al.* (hereinafter “Zalewski”). Applicants respectfully disagree.

Claims 6-9 and 25-28 depend from independent claims 1 and 20, respectfully, which are patentable over Zalewski for at least the reasons indicated above. Applicants therefore respectfully request that the Examiner reconsider and withdraw the rejection of dependent claims 6-9 and 25-28.

Conclusion

All of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. Applicants therefore respectfully request that the Examiner reconsider all currently outstanding rejections and that they be withdrawn. It is believed that a full and complete response has been made to the outstanding Office Action and, as such, the present application is in condition for allowance. If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at the number provided.

Prompt and favorable consideration of this Response is respectfully requested.

Respectfully submitted,

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